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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/263,805 | 03/08/1999 | YOSHIHIKO HIROTA | 49733-016 | 2255 |

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EXAMINER

WU, JINGGE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2623

DATE MAILED: 07/05/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/263,805

Applicant(s)

HIROTA ET AL.

Examiner

Jingge Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-44, 52, 53 and 56 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7--8, 10-19, 22-30, 32-33, 35-37, 40-41, 43-44, 52-53 and 56 is/are rejected.
- 7) ☐ Claim(s) 6, 9, 20-21, 3, 34, 38-39, 41 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on April 18, 2002, was entered and made of record. The objection to claims 5 and 25-27 are withdrawn because of new found references.

2. Applicants' amendment has required new grounds of rejection. New grounds rejection are therefore presented in the Office Action.

3. Applicant's arguments with respect to claims 1, 52, and 56 have been fully considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 15-17, 22-25, 28, 29-30, 32-33, 35 52-53, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5282026 to Nagata (a reference of the record) in view of US 5287204 to Koizumi et al. (a reference of the record).

As to claim 1, Nagata discloses an image processing apparatus including:

first determining means (fig.6, elements 4-6) for determining a color pixel (col. 5 lines 12-29);

means for dividing the image into a plurality block (fig. 6, elements 8-11, col. 5 lines 30-45);

counting means for counting the number of color pixels for each block (fig. 6, element 10); and

second determining means for discriminating an color image based on the counting results by counting means (fig. 6, element 15, col. 6 lines 1-6).

Nagata does not explicitly mention predetermined number of blocks which is well known in the art.

Koizumi, in an analogous environment, discloses predetermined number blocks in an image processing method (Figs. 13c and 13d, col. 11, lines 32-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Koizumi in the apparatus of Nagata in order to accurately and quickly determine the color image or monochromatic image. Doing so would increase the efficiency of the apparatus.

As to claim 56, the claim is a corresponding method claim to claim 1. The discussion is addressed with regard to claim 1.

As to claim 2, Nagata further discloses third determination means for determining color block (fig. 6, element 9, col. 5 lines 30-37).

As to claim 15, Nagata further discloses the block is color block when the number of color pixels exceed a threshold (THN) (col. 5 lines 30-37).

As to claim 16, Nagata further discloses the second determining means determines an image as an color image based on the result of the color block determining means (fig. 6, col. 5 line 30-col. 6 lines 6).

As to claim 17, Nagata further discloses means for designating the block in certain portion (col. 5 line 30-col. 6 lines 6, note that color block in third line, for example).

As to claim 22, Nagata further discloses the determining means for determining an image as color image when number of color blocks exceed a threshold (col. 5 lines 38-col. 6 line 6).

As to claim 23, the discussion is addressed with regard to claim 16.

As to claims 24 and 28, Nagata further discloses a group processing means for summing up the color pixels for a groups of color blocks adjacent to each other and deciding an image as an color image based on the result that is exceeding a threshold (fig. 4-5, col. 4 lines 19-53).

As to claim 25, Koizumi further discloses counting color pixels in a block (Fig. 9) and determining color block groups and color image by the determining means (col. 11 line 33-col. 12 line 58)

As to clam 35, Nagata further discloses the counting operation stops when the determining means deciding a color image signals (col. 5 lines 50-68, note that if any line has more than 80 continuous color pixels than the line is color line and stop counting).

As to claims 29 and 32, Nagata does not disclose excluding a block or correcting counting result.

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Koizumi, in an analogous environment, discloses excluding or correcting (not counting) a monochromatic block in certain portion of image from the determination (col. 9, lines 3-26).

As to claims 30 and 33, Koizumi further discloses the portion includes peripheral portion of the image (col. 10 lines 7-23).

As to claim 52, Nagata discloses all limitations except printing means.

Koizumi, in an analogous environment, discloses printing (copying) means (fig. 2, element 34) to print either color printing or monochrome printing based on the color discrimination result (col. 10 lines 24-60) and also discloses predetermined number blocks in an image processing method (Figs. 13c and 13d, col. 11, lines 32-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Koizumi in the apparatus of Nagata in order to accurately and quickly determine and print the color image or monochromatic image. Doing so would increase the efficiency of the apparatus.

As to claim 53, Koizumi further discloses a scanner (fig. 2 element 40, col. 4 lines 50)

6. Claims 3-4, 7-8, 10-14, 26-27, 36-37, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata and Koizumi in view of US 5751854 to Saitoh et al. (a reference of the record).

As to claim 3, Nagata does not disclose ratio of number of color pixel to that of entire pixels in the block.

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Saitoh, in an analogous environment, discloses using ratio of number of color pixel to that of entire pixels in the block to determine whether a block is particular color block (col. 56, lines 8-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Saitoh in the apparatus of Nagata in order to accurately and quickly determine the color area. Doing so would increase the efficiency and accuracy of the apparatus.

As to claims 4 and 7, Saitoh further discloses a special color is determined or designated (col. 56, lines 23-34 and fig, 64).

As to claims 8, and 11-12, Saitoh further discloses the threshold differs from each other and designating a block in certain area (special document area) (col. 56, line 8-col. 58 line 24).

As to claim 13, the discussion is addressed with regard to claims 24 and 35.

As to claims 10 and 14, the combination of Nagata and Saitoh does not teaches adjusting threshold .

However, Examiner takes Official Notice that the feature of adjusting threshold is notoriously well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the threshold adjusting scheme to set a threshold in the apparatus of Nagata in order to accurately and quickly determine a special color area. Doing so would increase the efficiency and accuracy of the apparatus.

As to claim 26, the discussion is addressed with regard to claim 3.

As to claim 27, the discussion is addressed with regard to claim 10

As to claims 36-37 and 40-41, Nagata does not disclose saturation of color pixels.

Saitoh, in an analogous environment, discloses using saturation data of color pixel for discriminating a particular color area that the threshold is different from those of other areas (col. 78 line 62-col. 79 line 29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the color saturation scheme of Saitoh to set a threshold in the apparatus of Nagata in order to accurately and quickly determine a special color area. Doing so would increase the efficiency and accuracy of the apparatus.

As to claims 43 and 44, the discussions are addressed with regard to claims 10 and 40.

7. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata and Koizumi in view of US 5296939 to Suzuki (a reference of the record).

As to claim 18, Nagata does not teach the ratio of color blocks versus all blocks of the image.

Suzuki, in an analogous environment, discloses using ratio of number of color block to that of the blocks to determine whether the image is color image (col. 7 lines 22-49).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Suzuki in the apparatus of Nagata in order to

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accurately and quickly determine the color image. Doing so would increase the efficiency and accuracy of the apparatus.

As to claim 19, the discussion is addressed with regard to claim 10.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata and Koizumi in view of JP 362256181A to Okano et al.

As to claim 5, Koizumi further discloses a color block histogram for a medium block to determine the color of the block (Fig. 11) but does not mention create intensity histogram for each block which is well known in the art.

Okano, in an analogous environment, discloses creating a color pixel histogram for a block (abstract)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand the scheme of Koizumi to include the scheme of Okano in the apparatus of Nagata in order to accurately and quickly determine the color image. Doing so would increase the efficiency and accuracy of the apparatus.

Allowable Subject Matter

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9. Claims 6, 9, 20-21, 31, 34, 38-39, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact information

10. Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Patent Examiner

**JINGGEWU
PATENT EXAMINER**

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6/28/02